

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PETER M. ARENA,

Plaintiff,

v.

CERVANTES, *et al.*,

Defendants.

Case No. 1:21-cv-00928-NONE-BAM (PC)

**ORDER DENYING PLAINTIFF’S MOTION
FOR STAY OF PROCEEDINGS**

(ECF No. 16)

Plaintiff Peter M. Arena (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Cervantes, Berlanga, Cerda-Jirano, Moreno, and Ceja for excessive force in violation of the Eighth Amendment.

The Court directed electronic service on Defendants on September 21, 2021. (ECF No. 14.) Defendants have not yet waived service of process or appeared in this action.

Currently before the Court is Plaintiff’s request for a stay of proceedings, filed October 7, 2021. (ECF No. 16.) Plaintiff requests that the Court grant an extension of six months or a stay of further proceedings in his case due to a scheduled surgery on his left shoulder on October 29, 2021. Plaintiff states that he will be rendered disabled until recovery and he will be unable to use his left hand to write and respond to motions by the Defendants or the Court. (*Id.*)

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1 The district court “has broad discretion to stay proceedings as an incident to its power to
2 control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 706 (1997) (citing *Landis v. North*
3 *American Co.*, 299 U.S. 248, 254 (1936)). “Generally, stays should not be indefinite in nature.”
4 *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066–67 (9th Cir. 2007).
5 If a stay is especially long or its term is indefinite, a greater showing is required to justify it.
6 *Yong v. I.N.S.*, 208 F.3d 1116, 1119 (9th Cir. 2000). The party seeking the stay bears the burden
7 of establishing the need to stay the action. *Clinton*, 520 U.S. at 708.

8 Here, Plaintiff has not carried his burden of establishing the need to stay this action.
9 Defendants have not yet been served, and there are no pending deadlines in this action. Plaintiff
10 has not identified any particular motion or deadline which he wishes to be extended, and the
11 Court is not aware of any at this time. The Court declines to impose a six-month extension of any
12 future deadlines, or an indefinite stay of this action, based solely on Plaintiff’s assertion that he
13 will be undergoing surgery on his left shoulder. If any deadlines are set in the future, and
14 Plaintiff believes that he will be unable to meet them due to his continued recovery from surgery,
15 Plaintiff may send the Court a motion requesting an extension of time on that basis. The motion
16 may be short.

17 Accordingly, Plaintiff’s motion for a stay of these proceedings, (ECF No. 16), is
18 HEREBY DENIED.

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20 IT IS SO ORDERED.

21 Dated: October 12, 2021

/s/ Barbara A. McAuliffe
22 UNITED STATES MAGISTRATE JUDGE
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